

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

v.

CHRISTOPHER A. HATCHER,

Defendant.

8:21CR82

**MEMORANDUM
AND ORDER**

This matter is before the Court on defendant Christopher A. Hatcher’s (“Hatcher”) *pro se* emergency motion to reduce sentence (Filing No. 80) based on his diagnosis of terminal cancer. *See* 18 U.S.C. § 3582(c)(1)(A). The Federal Public Defender’s Office has been appointed to represent Hatcher on this and a related matter.¹ Pursuant to this Court’s Order of November 28, 2023, the United States Probation and Pretrial Services Office for the District of Nebraska (“Probation”) investigated Hatcher’s request and prepared a report (Filing No. 82). In addition, the government has now responded to the motion under 18 U.S.C. § 3582(c)(1)(A) (Filing No. 86) indicating it will not resist Hatcher’s request for immediate release. For the reasons stated below, the Court will reduce Hatcher’s prison sentence to time-served and will impose modified conditions of supervised release.

I. BACKGROUND

On August 26, 2022, Hatcher pleaded guilty (Filing No. 55) to Count I of the Indictment charging him with violating 21 U.S.C. § 841(a)(1) and (b)(1) by intentionally distributing 50 grams or more of methamphetamine (actual).

¹Hatcher was previously identified as likely qualifying for relief under the 2023 Amendment 821, Part B to the United States Sentencing Guidelines. The Federal Public Defender’s Office was originally appointed to represent Hatcher on that issue (Filing No. 78).

On January 20, 2023, Hatcher was sentenced to 48 months imprisonment followed by 4 years of supervised release, a downward variance under the United States Sentencing Guidelines (“Guidelines”).

Hatcher is currently incarcerated at FCC Butner Federal Medical Center (“Butner”). According to Bureau of Prison (“BOP”) records, Hatcher has been diagnosed with esophageal cancer and has a realistic life expectancy of 12 to 18 months.

Hatcher reports he has been in regular contact with Butner’s warden and staff seeking to reduce his sentence, given his condition. Hatcher states that while the facility is working towards a release, he fears the process through the BOP may take up to a year.

II. DISCUSSION

Generally, this Court cannot “modify a term of imprisonment once it has been imposed.” 18 U.S.C. § 3582(c). However, the “compassionate release” provision of the First Step Act of 2018, Pub. L. No. 115-391, 132 Stat. 5194 (2018), does authorize the Court to reduce a defendant’s sentence if it finds “extraordinary and compelling reasons [to] warrant such a reduction” and the “reduction is consistent with the applicable policy statements issued by the [United States] Sentencing Commission.” 18 U.S.C. § 3582(c)(1)(A)(i). In deciding whether to reduce Hatcher’s sentence, the Court must and has considered the factors set forth in the 18 U.S.C. § 3553(a). *Id.* The Court is also required and has considered whether Hatcher presents a danger to the safety of any other person or to the community, as provided in 18 U.S.C. § 3142(g).¹ U.S.S.G. § 1B1.13(2).

Guideline § 1B1.13 and its application notes have recently been amended and apply in this circumstance. In defining “extraordinary and compelling reasons” the Guidelines clearly point to circumstances where a “defendant is suffering from a terminal illness.” U.S.S.G. § 1B1.13(b)(1)(A). Here, there is no argument Hatcher is suffering from terminal cancer, and his life expectancy is 12 to 18 months.

Probation completed an expedited investigation and notes the BOP assesses Hatcher as a low recidivism risk. Probation also investigated Hatcher's proposed release plan and has recommended he be granted immediate compassionate release and he reside with his friend Rick Nordman at his residence. Probation has found this is an appropriate location for release and supervision.

Hatcher is 44 years old and has been diagnosed with terminal cancer. While he is only nine months into his 41-month prison sentence, he presents little safety risk or risk of recidivism based upon his diagnosis and his limited criminal history.

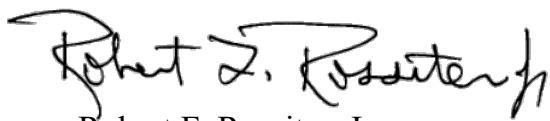
In light of the foregoing, the Court finds "extraordinary and compelling reasons" to reduce Hatcher's sentence. Therefore,

IT IS ORDERED:

1. Defendant Christopher Hatcher's emergency motion to reduce his sentence pursuant to 18 U.S.C. § 3582(c)(1)(A)(i) (Filing No. 80) is granted.
2. Hatcher's sentence is reduced to time-served, followed by 4 years of supervised release.
3. An amended judgment shall issue with modified terms of supervised release. The Court modifies Hatcher's conditions of supervised release to require Hatcher to report to the Supervision Unit of the U.S. Probation Office for the District of Nebraska (between the hours of 8:00 a.m. and 4:30 p.m.), 111 South 18th Plaza, Suite C79, Omaha, Nebraska, (402) 661-7555, within seventy-two (72) hours of release from confinement and, thereafter, as directed by the probation officer.
4. The other pending motion in this case (Filing No. 83) and the pending request for Amendment 821, Part B relief are each denied as moot.

Dated this 15th day of December 2023.

BY THE COURT:



Robert F. Rossiter, Jr.
Chief United States District Judge